

STATE HOUSE NEWS SERVICE

AMHERST STATE LAB CLOSURE COULD HAMPER PROSECUTION OF DRUG CASES

By Matt Murphy
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STATE HOUSE, BOSTON, AUG. 19, 2011....The Patrick administration is planning next month to close the only state drug testing laboratory in western Massachusetts, a move critics warn will further clog an already backlogged system and shift costs to local police departments.

The lab at the University of Massachusetts Amherst is one of only two in the state that weighs and analyzes illegal drugs seized by local police for criminal prosecutions. The shuttering of the lab would force police to transport evidence to a state lab in Jamaica Plain in Boston where there is already a 90-day backlog of evidence to be tested.

The Department of Public Health on Thursday confirmed plans to close the Amherst lab on Sept. 30, just days after indicating that no final decisions had been made.

"Due to an unprecedented fiscal situation we have had to make extremely difficult decisions and at this time we plan to consolidate our resources and close the Amherst Drug Lab," Jennifer Manley said in a statement.

The Patrick administration estimates it will save \$192,000 in salaries by closing the lab, and a total of \$227,000 in fiscal year 2012. The four employees at the lab, including three chemists and one lab supervisor, will be laid off, but could bump other employees depending on union seniority, Manley said.

Sen. Stanley Rosenberg (D-Amherst) said this is the third attempt in the past 25 years to close the Amherst lab, including 1998 and again in 2009. Both times closure plans were not executed.

"The essence of the problem is that samples to be tested and materials will need to be transported across the state. That's a very, very long way. You're looking at a minimum of half a day's work unless they develop some type of transportation system that's reliable," Rosenberg said.

The high-ranking Senate Democrat said he has scheduled a meeting for next Wednesday with Public Health Commissioner John Auerbach to discuss the situation.

Though he said he recognizes the toll multiple years of budget cuts have taken on state

agencies, Rosenberg said he worried closing the lab would simply shift costs to local police department who have to pay for man-hours to transport seized drug evidence to Boston to preserve the "chain of evidence" for trials.

"This is one situation when you're transferring the cost from the state to the municipality and from one state agency's budget, which is clearly pressed, to State Police or district attorneys. Someone is going to pay for transportation. Someone has to get the materials there," Rosenberg said.

Joseph Dorant, president of the Massachusetts Organization of State Engineers and Scientists, said he met with DPH officials Wednesday and was told there "no other option" but to close the Amherst lab. The union wrote a letter to lawmakers this week explaining the situation and potential consequences, and requesting \$300,000 be appropriated in a supplemental budget to avoid the closure.

"I'm really concerned about this, from a public safety standpoint," said Dorant, whose union represents the lab chemists in both Amherst and Boston. "This is really going to have an impact on the way they prosecute drug cases in the western part of the state. Without having the lab there, it's really going to be difficult."

In fiscal 2011, the Amherst lab processed 6,156 drug samples, including 1,527 samples taken from the Jamaica Plain lab where there is currently a 90-day turnaround time, according to MOSES. The Jamaica Plain lab tested 17,683 drug samples, and likely would be required under the consolidation plan to absorb 35 percent more cases.

At the Amherst lab, there is already a 38-day backlog of drug samples waiting to be tested.

Dorant said he also worried how a reduced staff, with just under 11 full-time employees in Jamaica Plain, would handle required court appearances in drug cases and what that would do to the wait times for processing.

A 2009 Supreme Court decision, *Melendez-Diaz v. The Commonwealth*, upheld the right of a defendant to confront and cross-examine lab analysts based on their written reports in court. Lab chemists from Amherst made 60 court appearances in fiscal 2011, while their colleagues in Boston appeared 188 times, according to Dorant.

If the Amherst lab is closed, analysts from Boston would be required to travel to courts all over the state, eating into time that could be spent testing criminal evidence, he said.

"This is going to extend that backlog for months, and I just don't see how they're going to do it," Dorant said.

Rosenberg said he was not sure what type of solution could be reached, but he said he would be open to using some of the state's expected surplus from fiscal 2011, which has yet to be finalized. The Patrick administration has indicated it would like to use the

majority of that funding to replenish the "rainy day" account, and Rosenberg said the debate over federal spending cuts in Washington could make it difficult to free up cash for unmet needs.

"There's only so many dollars to go around and with the threats coming out of Washington for hundreds of millions of cuts over the fiscal year it's going to make the Ways and Means committees very cautious," Rosenberg said.

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